

REMARKS

This application was deemed allowable in the Notice Of Allowance mailed May 20, 2004, and this amendment is being submitted prior to the payment of the Issue Fee, which is due August 20, 2004. In the Notice Of Allowance, all claims were allowed as originally submitted.

This amendment is necessary to amend claims 1, 3 and 14, for proper protection of the invention. The amended claims do not affect the patentable novelty of the claims, do not add new matter, and do not require a substantial amount of additional work on the part of the Office, or an additional search or examination.

(A) Why the amendment is needed:

Base claim 1, as originally presented defines the elongate generally rectangular outer casing as “metallic”. The term “metallic” is an undue limitation in base claim 1, and not necessary to distinguish over the prior art, for the reasons set forth below.

On page 12, last paragraph, of the specification, a two-module embodiment (23 and 24) was described wherein polarized DC electrical current flows through the outer casing to illuminate the laser module (53). Thus, in the “two-module” embodiment, the outer casing would be “metallic” in order to conduct current. On pages 13-15 of the specification, a single-module embodiment (100) was described, wherein the opposed facing flat facing ends (25 and 41) of the two-module embodiment are eliminated and the two modules (23 and 24) are combined into a singular unitary module (100).

As described on page 15, first paragraph, because the single module (100) does not require removal of the module from the outer casing (11) to install or remove the batteries, the intermediate electrical contact (61) is eliminated and “current does not flow through the outer casing”. Thus, in the “single-module” embodiment, the outer casing would not be required to be “metallic” since it does not conduct current. It could be made of plastic or any other material.

A competitor could easily circumvent original base claim 1 by making the single-module embodiment with a non-metallic outer casing.

For proper protection of the invention, base claim 1 has been amended to eliminate the term “metallic” which would cover both the “single-module” and the “two-module” embodiment. Dependent claim 3, which is directed specifically toward the “two-module” embodiment, has been amended to add the limitation defining the outer casing as “metallic”.

Dependent claim 14 has been amended to eliminate the term “metallic” to correspond with the language of amended base claim 1. Since a permanent magnet is used, a “metallic” outer casing is not required to impart magnetic properties and allow attachment of the layout square to metal objects.

(B) Why the proposed amended claims require no additional search or examination, and

(C) why the claims are patentable:

In the Notice Of Allowance mailed May 20, 2004, the Examiner's statement for reasons for allowance are as follows:

"The prior art of record does not show or suggest the invention as claimed. Applicant's prior patent is similar to the newly claimed invention. However, the newly claimed invention requires both an outer casing and an inner module. These features are critical to the applicant's claimed invention and are not shown or suggested by the prior art of record."

Thus, the critical features of applicant's claimed invention are the requirement of both an "outer casing" and an "inner module". As pointed out by the Examiner, these features are not shown or suggested by the prior art of record. The "metallic" outer casing limitation is not required to distinguish applicant's invention over the prior art of record.

(D) Why the amended claims were not presented earlier:

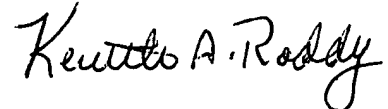
The applicant, just a few days prior to receiving the Notice Of Allowance, received a cost estimate for producing the single-module embodiment with an outer casing formed of plastic, and requested the undersigned agent to review the claims to determine whether they would cover a non-metallic outer casing. There was no previous office action on the merits of the claims prior to receiving the Notice Of Allowance, and insufficient time to amend the claims prior to receiving the Notice Of Allowance.

Therefore, it is submitted that this amendment is necessary for proper protection of the invention, and accordingly, in view of the foregoing amendments, explanations and remarks it is respectfully requested that this amendment be accepted and entered.

June 16, 2003

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Respectfully submitted,

A handwritten signature in cursive script that reads "Kenneth A. Roddy". The signature is written in dark ink and is positioned above the printed name and title.

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